

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3305-01  
Bill No.: Perfected HB 1756  
Subject: Banks and Financial Institutions; Business and Commerce; Crimes and Punishment; Law Enforcement Officers and Agencies  
Type: Original  
Date: April 22, 2008

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Bill Summary: The proposal changes the punishment for counterfeiting and requires the forfeiture of counterfeit goods, the materials and implements used to produce them, and the property used in the commission of the crime.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration, Department of Public Safety – Missouri State Highway Patrol**, and the **– Director's Office** assume the proposal would have no fiscal impact on their agencies.

In response to a similar proposal from the 2007 Session (HB 482, LR # 0558-01), officials from the **Office of the Attorney General** assumed any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

In response to a similar proposal from the 2007 Session (HB 482, LR # 0558-01), officials from the **Department of Corrections (DOC)** stated their records indicate no counterfeiting admissions in FY 06 and only one release from prison for a first counterfeiting offense.

DOC assumed they cannot currently predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY07 average of \$41.21 per inmate per day, or an annual cost of \$15,040 per inmate) or through supervision provided by the Board of Probation and Parole (FY07 average of \$2.43 per offender per day, or an annual cost of \$887 per offender).

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

In response to a similar proposal from the 2007 Session (HB 482, LR # 0558-01), officials from the **Office of Prosecution Services (OPS)** stated any increase in the number of cases referred for criminal prosecution will have an additional fiscal impact on county prosecutors. However, officials from the OPS are not aware of any estimates of the number of additional criminal cases that would be referred to county prosecutors for charges because of this proposed legislation. OPS stated the legislation would have no significant direct fiscal impact on the OPS.

**Oversight** assumes county prosecutors could absorb any additional costs incurred as a result of the proposed legislation within existing resources.

Officials from the **Office of the State Public Defender (SPD)** assume increasing penalties on existing crimes, or creating new crimes, will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<u><b>(Less than \$100,000)</b></u>	<u><b>(Less than \$100,000)</b></u>	<u><b>(Less than \$100,000)</b></u>

FISCAL IMPACT - Local Government

FY 2009  
(10 Mo.)

FY 2010

FY 2011

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation changes the laws regarding the counterfeiting of goods:

1. Specifies that a counterfeiting offense involving less than 100 items or services valued at \$1,000 or less will be a class A misdemeanor;
2. Increases the penalty for a counterfeiting offense involving 100 to 1,000 items or services valued at \$1,000 to \$10,000 from a class D felony to a class C felony;
3. Increases the penalty for a counterfeiting offense when the person has been previously convicted two or more times, the violation involves 1,000 or more items or services valued at \$10,000 or more, or the person knowingly or recklessly causes or attempts to cause the physical injury of another person from a class C felony to a class B felony;
4. Adds the penalty of a class A felony if a person knowingly or recklessly causes or attempts to cause the serious physical injury or death of another person in the commission of any counterfeiting offense;
5. Requires the forfeiture of all counterfeited property used or sold and any property directly or indirectly obtained as the result of the counterfeiting offense;
6. Requires the court, at the conclusion of all criminal and civil forfeiture proceedings, to order any forfeited item to be destroyed with the written consent of the trademark owners; and

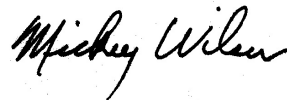
ASSUMPTION (continued)

7. Requires any person convicted of a counterfeiting offense to pay restitution to the trademark owner and any other victim of the offense in the amount of any expenses incurred by the trademark owner in the investigation and prosecution of the offense as well as any profits realized by the person convicted of the offense.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General  
Office of State Courts Administrator  
Department of Insurance, Financial Institutions, and Professional Registration  
Department of Corrections  
Department of Public Safety  
    – Missouri State Highway Patrol  
    – Director's Office  
Office of Prosecution Services  
Office of the State Public Defender



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Director  
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